

**FINAL REPORT
OF THE
INTERIM STUDY COMMITTEE ON
GOVERNMENT ADMINISTRATION AND
REGULATORY MATTERS**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

October, 2006

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2006

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INTERIM STUDY COMMITTEE ON GOVERNMENT ADMINISTRATION AND REGULATORY MATTERS

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**Robert Rudolph
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**Timothy Tyler
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**Chuck Mayfield
Fiscal Analyst for the Committee**

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

I. LEGISLATIVE COUNCIL DIRECTIVE

The Legislative Council directed the Committee to do the following:

A. Monitor and report on the impact of the privatization of non-health related services performed or administered by state agencies, including the impact on state employees who have been laid off (SR 51 and SR 56).

B. License branch operations and closings (SB 92).

C. Eminent domain issues, including the use of eminent domain by small private utilities (HR 87 and Sen. Bray).

D. Matters involving nonprofit entities, including: (1) funding issues and the adequacy of remedies associated with enforcing IC 23-17-24 and IC 30-4-5.5; and (2) the feasibility of establishing procedures and controls for how nonprofit entities authorized by statute and created by state agencies award contracts and expend funds (Legislative Council)

II. INTRODUCTION AND REASONS FOR STUDY

The topics assigned to the Committee were derived from subjects contained in various House and Senate Resolutions and bills introduced during the 2006 Session of the General Assembly.¹ In addition, the topic relating to nonprofit entities originated in the Legislative Council.

III. SUMMARY OF WORK PROGRAM

The Committee met four times:

August 10. The Committee generally discussed the assigned topics and determined how it would deal with those topics during the course of the Interim.

August 24. The Committee met to hear and discuss information from officials from the Bureau of Motor Vehicles about the Bureau's conversion of its computer systems, the opening and operation of new branches, and privatization initiatives.

September 6. The Committee met to hear and discuss information about various matters relating to the operation of nonprofit entities, eminent domain, and privatization of the State's nonhealth related services. Individuals representing the Office of the Attorney General and the State Board of Accounts appeared to discuss nonprofit entities.

1. See the description of the topics assigned by the Legislative Council in Part I.

The Committee heard information about the status of eminent domain legislation recently considered by the General Assembly. A discussion of a circumstance involving a private utility in Floyd County using eminent domain served as an introduction to this topic. Finally, officials from the Indiana Department of Administration discussed various issues about the privatization of the State's nonhealth related services.

October 31. The Committee met to consider, discuss, and approve this Final Report.

IV. SUMMARY OF TESTIMONY

The Committee heard testimony from the individuals on the "Witness List."² The following is a summary of the testimony regarding each of the issues considered by the Committee:

Bureau of Motor Vehicles

Computer Systems. The Commissioner of the Bureau of Motor Vehicles apologized for the problems that conversion of the Bureau's computer systems had caused citizens. Work on conversion of the systems began in the late 1990s. One of the purposes of the new system was to combine several disparate Bureau databases into an integrated system. During the conversion process, the Bureau discovered that the old databases contained a large amount of erroneous and inconsistent data. For example, those databases contained more than 600,000 invalid or duplicate Social Security Numbers.

In response to questions as to why the old and new systems were not run in parallel during the conversion, the Bureau's Chief Information Officer said that during early phases of the conversion, the old and new systems were run concurrently. After running hundreds of tests without incident, the decision was made to proceed to the next phase which included shutting down the old system. The problems that occurred during this phase were unanticipated.

In response to questions as to why the Bureau proceeded with the conversion in July, the Commissioner responded that there were fears about the financial instability of the software vendor. If the vendor went out of business, there was a possibility that personnel who were key to making the conversion work would be lost. Given this circumstance, the Commissioner determined it would be better for the State to proceed with the project and complete the conversion as soon as possible.

The Committee heard from representatives of local law enforcement and the Indiana State Police about the effects of the conversion of the databases on law enforcement activities. The witnesses indicated that many of the problems relating to law enforcement occurred because the

2. See the final page of this report.

new system gave law enforcement personnel much more information than the old systems and police officers often were overwhelmed by the data and the format in which the data were presented. The witnesses indicated that while problems still remained, the situation had improved since July.

The Committee also discussed with the witnesses communications between Bureau employees and legislators, disruption of distribution of automobile excise taxes to the counties, and procedures utilized to compensate for the inconveniences suffered by citizens during the conversion process.

New Branches.

The Assistant Commissioner of the Bureau's Branch Operations Division discussed the opening of new branches at several locations in Indiana, illustrating her discussion with photographs taken at the new branches. The Assistant Commissioner described the training that branch associates receive and reported that the Bureau hires more part time employees to provide flexibility in the staffing of the branches. The Assistant Commissioner said that branch associates are paid in a range of \$9 to \$14 per hour. There was discussion of branch leases, location of public restrooms in branches, and the ebb and flow of business during a typical week in the branches.

Privatization Initiatives.

The Commissioner discussed efforts to provide Bureau services through the private sector. He described the Computer Vehicle Registration Project which enables an automobile dealer to provide initial titling and registration of vehicles sold at the dealership. The Commissioner and the Committee also discussed the use of self service kiosks. The Commissioner indicated that the use of the kiosks is under review because they are expensive to operate and maintain for the business done at them.

Nonprofit Entities

The Committee heard testimony from representatives of the Attorney General's Office about regulation of nonprofit corporations and charitable trusts. The Director of the Attorney General's Consumer Protection Division discussed the remedies available to the Division if a nonprofit entity has engaged in wrongdoing. The Director discussed two cases of nonprofit entities in Indiana with which the Division has dealt.

The Director described the kinds of nonprofit entities over which the Division has some authority. The Director and the Committee discussed the formation of nonprofit entities and the

roles the federal Internal Revenue Service and the State Board of Accounts play in regulation of these entities. The State Examiner of the State Board of Accounts spoke about the powers the State Board of Accounts has to audit nonprofit entities.

The Committee discussed with the witnesses the remedial powers that could be used to regulate nonprofit entities and what the most appropriate allocation of those powers among government agencies might be. The Director described other remedial powers that the General Assembly might grant the Attorney General, but stated that in his view, the additional powers granted by the General Assembly in 2005 legislation were sufficient for the time being. The Director said that if the General Assembly wanted the Attorney General's oversight of nonprofit entities to become more active, the Attorney General would need additional staff and other resources.

Eminent Domain

Representative Wolkins described the changes the General Assembly made to the eminent domain statute during the 2006 Session. He said that the following three unresolved issues remained from that Session: (1) Whether private utilities should have eminent domain power? (2) Whether eminent domain power of appointed governmental entities should be subject to the approval of an elected official or a body of elected officials? (3) The use of eminent domain in the development of rails-to-trails projects.

The Committee heard and discussed testimony about the use of eminent domain by a private utility in Floyd County.

Privatization of the State's Nonhealth Related Services

The Committee discussed and heard testimony about the privatization of the food services in the State's correctional institutions. Officials from the Indiana Department of Administration addressed this issue and other privatization efforts in the Executive Branch.

There was testimony and discussion about: (1) how the award of state contracts affects state employees and "Indiana businesses," (2) the criteria used by the State to determine whether a business is an "Indiana business," and (3) whether the criteria are strict enough. There was discussion of contract awards to minority owned and women owned businesses. The founder of an Indiana office supply company described how the State's contracting practices have adversely affected his business.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee made the following findings:

Bureau of Motor Vehicles

The Committee finds that the Bureau of Motor Vehicles will continue to need improvements in the technology it uses due to increased demands placed on the State by the federal Real ID act and other homeland security initiatives.

Nonprofit Entities

The activity of nonprofit entities has increased significantly in recent years and is likely to continue to increase.

Eminent Domain

The Committee finds that legislation enacted during the 2006 Session made several reforms relating to the exercise of the power of eminent domain in Indiana. The Committee finds that additional controls over exercise of the power of eminent domain are needed to make use of this power in some cases more accountable to the citizens of Indiana.

Privatization of the State's Nonhealth Related Services

The Committee finds that there are not adequate tools to measure benefits of privatization of nonhealth related services or the effect of privatization on state employees.

The Committee made the following recommendations:

Bureau of Motor Vehicles

(1) The General Assembly should provide appropriate funding for the Bureau of Motor Vehicles to increase hours of operation and provide additional means by which the public can obtain Bureau services.

(2) The General Assembly should continue to encourage the Bureau of Motor Vehicles to provide services through the private sector with appropriate standards and safeguards in place.

Nonprofit Entities

The Office of the Attorney General should be authorized to hire two additional attorneys and related support staff, and to acquire necessary administrative assets to increase oversight of

nonprofit entities.

Eminent Domain

(1) The General Assembly should enact legislation to provide that the exercise of eminent domain by any entity should be subject to the approval of an elected official or a body of elected officials.

(2) The General Assembly should enact legislation to provide greater oversight on the ability of an entity to become a utility that has the power of eminent domain.

Privatization of the State's Nonhealth Related Services

The Executive Branch should develop tools to measure the benefits of privatization of state's nonhealth related services. In particular, measurement tools should be able to compare the benefits of privatization to the costs. With respect to State employees, the measurement tools should be able to account for and assess the extent to which State employees are able to find comparable employment in State government or the private sector, including employment with private companies that assume the responsibility of providing the services formerly provided by state employees.

WITNESS LIST

Ben Blanton	Attorney at Law, Member, Attorney General's Nonprofit Advisory Committee
Doug Carter	Hamilton County Sheriff
John Clawson	Captain, Indiana State Police
Brent Embry	Director, Consumer Protection Division, Office of the Attorney General
Bruce Hartman	State Examiner, State Board of Accounts
Chris Johnston	Office of Management and Budget
Irene Lange	Assistant Commissioner, Branch Operations Division, Bureau of Motor Vehicles
David Miller	Legislative Director, Office of the Attorney General
John Mutz	Member, Attorney General's Nonprofit Advisory Committee
Kevin Ober	Deputy Commissioner for Administration, Indiana Department of Administration
John Scheidler	Attorney at Law, Duke Energy
Kent Schroder	Chief Information Officer, Bureau of Motor Vehicles
Joel Silverman	Commissioner, Bureau of Motor Vehicles
Doug Vaughn	Founder, Rite Quality Office Supplies, Kokomo, Indiana
Paul Whitesell	Superintendent, Indiana State Police
Rob Wynkoop	Deputy Commissioner for Finance and Procurement, Indiana Department of Administration